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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,569	09/09/2003	George Emanuel	KSY 02655 PTUS	3413
32233	7590	10/15/2010		
STORM LLP BANK OF AMERICA PLAZA 901 MAIN STREET, SUITE 7100 DALLAS, TX 75202			EXAMINER KIM, CHRISTOPHER S	
			ART UNIT	PAPER NUMBER
			3752	
			NOTIFICATION DATE	DELIVERY MODE
			10/15/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/658,569

Applicant(s)

EMANUEL, GEORGE

Examiner

Christopher S. Kim

Art Unit

3752

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-65 and 68-78 is/are pending in the application.
- 4a) Of the above claim(s) 68 and 77 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-65, 69-76 and 78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/888)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The response filed September 2, 2010 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

3. Applicant elected Invention I, Species A (figures 1-3) in the reply filed on November 4, 2005. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
4. Claims 68 and 77 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 4, 2005.

Claim Rejections - 35 USC § 112

5. Claims 59-65, 69-76, 78 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 59 recites the limitation "...each orifice injecting iodine at right angles to a tangent to a curvature of a strut surface at the orifice" in lines 15-16 that was not disclosed at the time the application was filed.

Claim 70 recites a similar limitation in lines 10-11.

6. Claims 59-65, 69-76, 78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 59 recites the limitation "a laser cavity" in line 15. The specification teaches a laser cavity 18. Claim 59 recites the limitation "pair of opposed curved wall defining an area" in lines 3-4. The recitation "a laser cavity" would appear to be a double inclusion of at least a portion of the "area" recited in line 4.

Claim 59 recites "An iodine injection system for injecting iodine into gas flowing through a nozzle for a laser comprising:..." The preamble indicates that the intended use of the iodine injection system is for injecting iodine into a gas flowing through a nozzle for a laser. The preamble suggests that the "gas," "nozzle" and "laser" are not positively recited limitations/elements of the iodine injection system. The preamble appears to be in conflict with the body of the claim which suggests that the nozzle is an element of the injection system.

The term "proximate" in claim 60 is a relative term which renders the claim indefinite. The term "proximate" is not defined by the claim, the specification does not

provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is uncertain what distance is defined by the claim.

Claim 60 recites the limitation "gas flowing through the nozzle" in line 2. There is insufficient antecedent basis for this limitation in the claim. The "gas flowing through the nozzle" is not a positively recited limitation in parent claim 59.

Claim 69 recites the limitation "gas flowing through the nozzle" in line 2. There is insufficient antecedent basis for this limitation in the claim. The "gas flowing through the nozzle" is not a positively recited limitation in parent claim 59.

Claim 70 recites "An iodine injection system for injecting iodine into gas flowing through a nozzle for a laser comprising:..." The preamble indicates that the intended use of the iodine injection system is for injecting iodine into a gas flowing through a nozzle for a laser. The preamble suggests that the "gas," "nozzle" and "laser" are not positively recited limitations/elements of the iodine injection system. The preamble appears to be in conflict with the body of the claim which suggests that the nozzle and gas are elements of the injection system.

The term "proximate" in claim 70 is a relative term which renders the claim indefinite. The term "proximate" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is uncertain what distance is defined by the claim.

The term "proximate" in claim 71 is a relative term which renders the claim indefinite. The term "proximate" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is uncertain what distance is defined by the claim.

Claim 75 recites the limitation "a carrier gas" in line 2. The claim fails to define any relationship of the carrier gas to the claimed invention. It is uncertain whether the claimed invention further comprises a carrier gas.

Claim 76 recites the limitation "a carrier gas" in line 2. The claim fails to define any relationship of the carrier gas to the claimed invention. It is uncertain whether the claimed invention further comprises a carrier gas.

Claim 78 recites the limitation "a gas" in line 2. Parent claim 70 recites "An iodine injection system for injecting iodine into gas flowing through a nozzle for a laser comprising:..." The preamble indicates that the intended use of the iodine injection system is for injecting iodine into a gas flowing through a nozzle for a laser. The preamble suggests that the "gas," "nozzle" and "laser" are not positively recited limitations/elements of the iodine injection system. The preamble appears to be in conflict with the body of the claim which suggests that the nozzle and gas are elements of the injection system. Is the "gas" recited in claim 78 the "gas" recited in claim 70, line 1?

Response to Arguments

7. Applicant's arguments filed September 2, 2010 have been fully considered but they are not persuasive.

Regarding applicant's argument directed to withdrawn claims 68 and 70, it appears that applicant is unfamiliar with restriction practices. If and upon allowance of a generic claim, any dependent claims directed to a non-elected species are subject to rejoinder. MPEP 821.04.

Applicant argues that figure 1 shows "...each orifice injecting iodine at right angles to a tangent to a curvature of a strut surface at the orifice." Applicant further argues that the exact wording need not be used in the specification and invites the examiner to use proper instruments to draw center lines of each spray may be drawn that will be at right angles to a tangent to the curvature of strut 14. Proportions of features, i.e., the measurement of angles, in a drawing are not evidence of actual proportions when the drawings are not to scale. MPEP 2125. In addition, no exact wording is required in the specification. The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention. 35 U.S.C. 112, first paragraph. The disclosure, as originally filed, must contain support for the currently claimed feature and not an exact wording. The specification discloses, on page 16, lines 6-7, that figure 2 is a upper half of a symmetric MLN 12. Based on the disclosure, assuming that strut 14 is symmetrical about the X

axis, the figures may show the orifice on the X axis injecting iodine at right angles to a tangent to a curvature of a strut surface at the orifice but the drawings do not appear to show each orifice injecting iodine at right angles to a tangent to a curvature of a strut surface at the orifice.

Applicant argues that there is no error in the preamble. The preamble indicates that the intended use of the iodine injection system is for injecting iodine into a gas flowing through a nozzle for a laser. The preamble suggests that the "gas," "nozzle" and "laser" are not positively recited limitations/elements of the iodine injection system. The preamble appears to be in conflict with the body of the claim which suggests that the nozzle and gas are elements of the injection system. MPEP 2106.II.C; 2111.02.II.

Applicant argues that the term "proximate" is not indefinite. The term "proximate" is used by applicant to further define a location/position. In claims 60 and 71, the term "proximate" defines the degree of distance between the strut and the downstream end of the kernel region. When a term of degree is presented in a claim, first a determination is to be made as to whether the specification provides some standard for measuring that degree. If it does not, a determination is made as to whether one of ordinary skill in the art, in view of the prior art and the status of the art, would be nevertheless reasonably apprised of the scope of the invention. MPEP 2173.05(b). The specification discloses, on page 15, lines 10-12, "Strut 14 is preferably located in MLN 12 between points x_i and x_f , and most preferably between points B and x_f , where point B has the coordinate x_B and $y_B=0$." It is uncertain whether "proximate" should define points between x_i and x_f or points between B and x_f , where point B has the

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coordinate x_B and $y_B=0$. Additionally, such coordinates do not appear to be defined relative to the kernel region. In claim 70, the term "proximate" defines the degree of distance between the walls approaching a straight line and the terminal end of the outlet portion. The specification does not appear to provide a standard for determining the distance. If one of ordinary skill in the art, in view of the prior art and the status of the art, would be nevertheless reasonably apprised of the scope of the invention, applicant is requested to provide/define the scope.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher S. Kim/
Primary Examiner, Art Unit 3752

CK